

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION**

DAVID J. BURLEIGH obo
ERIC SAMUEL BURLEIGH, SR.

CIVIL ACTION NO.:

VERSUS

HONORABLE JUDGE:

NEXION HEALTH AT PATTERSON, INC.

MAGISTRATE JUDGE:

COMPLAINT

Complainant, DAVID J. BURLEIGH, on behalf of his father, ERIC SAMUEL BURLEIGH, SR., persons of the full legal age, through undersigned counsel, bring this action against defendant, NEXION HEALTH AT PATTERSON, INC., a foreign corporation incorporated in Delaware with its principal place of business in Sykesville, Maryland.

I.

This Court has diversity jurisdiction over this case under 28 U.S.C. §1332. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

II.

Defendant, NEXION HEALTH AT PATTERSON, INC., is registered with the Louisiana Secretary of State as a non-Louisiana corporation authorized to do and doing business in Patterson, Louisiana.

III.

Defendant is truly indebted to the complainant in an amount commensurate with the damages sustained by complainant for the following, to-wit:

IV.

On or about June 2, 2011, Eric Samuel Burleigh, Sr., while a resident at Nexion Health at Patterson, Inc. suffered fractures to both hips.

V.

On information and belief, the fractures occurred during an improper transfer by one of Defendant's CNAs and specifically, when he was transferred from bed to wheelchair and/or back without assistance and without using a lift.

VI.

The injuries of Eric Samuel Burleigh, Sr. were a direct and proximate result of the failure of NEXION HEALTH AT PATTERSON, INC., its staff, employees, and others for whom it is responsible to follow the basic and elementary principles of care for its patient, ERIC SAMUEL BURLEIGH, SR.

VII.

Defendant either lacked the degree of knowledge or skill required or failed to exercise the degree of care ordinarily exercised by health care providers licensed to practice in the State of Louisiana under similar circumstances and failed to exercise the appropriate standard of care for their particular specialty and also failed to use reasonable care and diligence along with the best judgment in the application of that skill and further, as a proximate result of this lack of knowledge or skill and the failure to exercise the degree of care, Eric Samuel Burleigh, Sr. suffered injuries that would not otherwise have been incurred.

VIII.

Upon information and belief, the aforementioned injuries were caused or contributed to wholly, solely and/or concurrently through the negligence and/or fault of defendant in the following non-exclusive particulars, to-wit:

- a) Failing to render proper care to Eric Samuel Burleigh, Sr.;
- b) Failing to properly monitor, supervise and train the CNAs and other staff in the care of Eric Samuel Burleigh, Sr.;
- c) Failing to maintain sufficient personnel on duty and equipment to adequately care for Eric Samuel Burleigh, Sr.;
- d) Failing to use assistance and/or a hooyer lift during transfers; and
- e) Failing to prevent Eric Samuel Burleigh, Sr.'s fall, resulting in his hip fractures.

IX.

David Burleigh holds a power of attorney for his father, Eric Samuel Burleigh, Sr.

X.

As a direct and proximate result of the negligence of defendant, NEXION HEALTH AT PATTERSON, INC., complainant itemizes the damages sustained in the following non-exclusive particulars and prays for such awards as are reasonable in the premises:

- a) Pain and suffering (past and future);
- b) Mental anguish and emotional distress (past and future);
- c) Loss of enjoyment of life (past and future); and
- d) Medical expenses (past and future);

XI.

Defendant was “enrolled” or “qualified” under the Louisiana Medical Malpractice Act and accordingly, this matter was presented to a medical review panel after Complainant filed with the Louisiana Patient’s Compensation Fund on November 4, 2011.

XII.

The medical review panel met on January 30, 2012 and rendered a decision in favor of complainant finding that Defendant breached the standard of care owed to Mr. Burleigh and that this breach caused his injuries.

WHEREFORE, complainant, DAVID BURLEIGH o/b/o ERIC SAMUEL BURLEIGH, SR., pray that defendant, NEXION HEALTH AT PATTERSON, INC., be served with a certified copy of this complaint and be cited to appear and answer same, that after all legal delays and due proceedings had, there be judgment rendered herein and in favor of complainant and against defendant for such damages as are reasonable in the premises, with legal interest from the date of judicial demand until paid, and for all costs of these proceedings as allowed by law.

XIII.

Complainant requests trial by jury.

AND FOR ALL GENERAL AND EQUITABLE RELIEF.

RESPECTFULLY SUBMITTED,

GUILLIOT & ST. PÉ, LLC

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